



BUDGET SECTION

Thursday, August 13, 2020
Senate Chamber, State Capitol
Bismarck, North Dakota

Senator Terry M. Wanzek, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Terry M. Wanzek, Brad Bekkedahl, Dick Dever, Robert Erbele, John Grabinger, Joan Heckaman, David Hogue, Ray Holmberg, Jerry Klein, Karen K. Krebsbach, Gary A. Lee, Tim Mathern, Dave Oehlke, Nicole Poolman, Larry J. Robinson, Ronald Sorvaag, Rich Wardner; Representatives Bert Anderson, Thomas Beadle, Larry Bellew, Tracy Boe, Josh Boschee, Mike Brandenburg, Jeff Delzer, Karla Rose Hanson, Richard G. Holman, Michael Howe, Keith Kempenich, Lawrence R. Klemin, Gary Kreidt, Scott Louser, Bob Martinson, Lisa Meier, Corey Mock, David Monson, Mike Nathe, Jon O. Nelson, Chet Pollert, Mark Sanford, Mike Schatz, Jim Schmidt, Randy A. Schobinger, Don Vigesaa

Members absent: None

Others present: See [Appendix A](#)

It was moved by Senator Robinson, seconded by Senator Bekkedahl, and carried on a voice vote that the minutes of the June 25, 2020, meeting be approved as distributed.

STATE BUDGET INFORMATION

General Fund Status

Mr. Joe Morrisette, Director, Office of Management and Budget, presented a report ([Appendix B](#)) on the status of the general fund and the balances of selected special funds. He presented the following information on the status of the general fund for the 2019-21 biennium:

Unobligated general fund balance - July 1, 2019		\$65,000,000
Balance obligated for authorized carryover from the 2017-19 biennium		130,404,813
Total beginning general fund balance - July 1, 2019		\$195,404,813
Add		
General fund collections to date	\$3,154,504,653	
Remaining forecasted general fund collections	1,772,773,763	
Total estimated general fund collections		4,927,278,416
Total estimated revenues available		\$5,122,683,229
Less		
Legislative appropriations - One-time	(\$48,639,068)	
Legislative appropriations - Ongoing	(4,794,924,098)	
Authorized carryover from previous biennium	(130,404,813)	
2019-21 authority spent in 2017-19 pursuant to emergency clause	106,000	
Total appropriations		(4,973,861,979)
Estimated ending general fund balance - June 30, 2021 - Before transfers		\$148,821,250
Transfer to budget stabilization fund ¹		0
Estimated ending general fund balance - June 30, 2021		\$148,821,250

¹Pursuant to North Dakota Century Code Chapter 54-27.2, any end-of-biennium balance in excess of \$65 million must be transferred to the budget stabilization fund, up to a maximum of 15 percent of general fund appropriations. The budget stabilization fund is estimated to be at the maximum balance at the end of the 2019-21 biennium.

Balances of Selected Special Funds

Mr. Morrisette presented the following schedule detailing estimated fund balances of selected special funds as of July 31, 2020:

Budget stabilization fund	\$717,219,500 ¹
Legacy fund	\$6,855,976,582
Foundation aid stabilization fund	\$372,905,878
Tax relief fund	\$290,474,146
¹ May 31, 2020, balance	

Mr. Morrisette said the balance of the strategic investment and improvements fund on May 31, 2020, was \$766,892,684. He said of this amount, \$680,310,434 is obligated which provides for an unobligated balance of \$86,582,250.

In response to a question from Representative Pollert, Mr. Morrisette said current estimated oil production in the state is 1.2 million barrels per day.

In response to a question from Senator Bekkedahl, Mr. Morrisette said there is a 2-month delay from when oil is produced to when oil taxes attributable to the production are allocated. He said taxes attributable to oil produced in May are the final allocations that could be made to the general fund for a fiscal year or biennium.

In response to a question from Representative Nathe, Mr. Morrisette said the state share of oil tax collections currently is being deposited in the second tier of allocations to the general fund.

Representative Kempenich said the delay in reporting oil tax collections may cause significant differences between reported and actual fund balances. He said with recent deposits the current balance of the legacy fund is over \$7 billion.

AGENCY REQUESTS APPROVED BY THE EMERGENCY COMMISSION

Chairman Wanzek requested the Budget Section to consider agency requests ([Appendix C](#)) authorized by the Emergency Commission and forwarded to the Budget Section pursuant to Chapter 54-16.

Mr. Morrisette provided information regarding the following requests authorized by the Emergency Commission and which require consideration by the Budget Section:

- **Department of Career and Technical Education (Request #1995)** - The request is to increase federal funds spending authority by \$122,695 in the grants line item for a new program providing funding for apprenticeships across the state, primarily for information technology-related apprenticeships. The funding will be transferred to Lake Region State College for administration of the program.
- **Department of Commerce (Request #1997)** - The request is to increase federal funds spending authority by \$3,468,739 in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding 2020 line item for the Emergency Solutions Grants Program, also known as the Emergency Shelter Grants Program. The funding will be used for the benefit of unsheltered homeless, sheltered homeless, and those at risk of homelessness in the state.
- **Department of Commerce (Request #1998)** - The request is to increase federal funds spending authority by \$694,317 in the grants line item for a state apprenticeship expansion program to increase apprenticeship opportunities in the state.
- **State Department of Health (Request #2000)** - The request is to increase federal funds spending authority by \$88,150 in the Coronavirus (COVID-19) response line item to accept and expend grant funds to contain and mitigate the spread of COVID-19. The funding will be used for staff time and travel to conduct focused infection control surveys of long-term care facilities as required by the federal Centers for Medicare and Medicaid Services.
- **State Department of Health (Request #2001)** - The request is to increase federal funds spending authority by \$1,160,455 in the COVID-19 response line item to accept and expend grant funds to contain and mitigate the spread of COVID-19. A portion of the funding (\$175,455) will be provided to Sanford Health in Fargo, the designated special pathogen center in the state. The remainder (\$985,000) will be used for ventilators to support surge capacity.
- **Department of Human Services (Request #2002)** - The request is to increase federal funds spending authority by \$37,226,127 to accept and expend funds for costs relating to the COVID-19 pandemic for additional benefits to individuals enrolled in the supplemental nutrition assistance program (\$12,000,000), for the foster care and

subsidized adoption programs (\$500,000), for medical assistance grants to continue the temporary increase of 6.2 percent in the state's federal medical assistance percentage (\$21,000,000), for rural area stimulus payments for human service centers and institutions to partially replace revenue reductions (\$3,445,927), and for support to the Great Plains Food Bank through claims submitted to the Federal Emergency Management Agency (FEMA) for emergency food costs (\$280,200).

- **Department of Corrections and Rehabilitation (Request #2003)** - The request is to transfer the \$5,513,789 of federal funds authorized in Emergency Commission Request #1982, approved in May 2020, and #1993, approved in June 2020, to a separate line item within the Department of Corrections and Rehabilitation budget.
- **Office of Management and Budget (Request #2004)** - The request is to increase federal funds spending authority by \$5,932,707 in the grants line item to accept and spend federal governor's emergency education relief funds provided in the CARES Act. The funding will be forwarded to the Department of Public Instruction and the North Dakota University System for distribution to local education agencies and institutions of higher education to allow for the continuation of educational services during the COVID-19 pandemic.
- **Multiple Agencies (Request #2005)** - The request is to increase federal funds spending authority by \$319,701,086 to allow the following agencies to accept and expend federal Coronavirus relief funds for costs relating to the COVID-19 pandemic:

Secretary of State - \$49,216;
 Office of Management and Budget - \$894,525;
 Information Technology Department - \$500,000;
 Judicial branch - \$285,829;
 North Dakota University System office - \$160,400;
 Bismarck State College - \$1,584,357;
 Lake Region State College - \$369,887;
 Williston State College - \$515,932;
 University of North Dakota - \$6,826,006;
 North Dakota State University - \$2,882,792;
 North Dakota State College of Science - \$1,452,586;
 Dickinson State University - \$1,179,920;
 Mayville State University - \$764,488;
 Minot State University - \$954,560;
 Valley City State University - \$270,627;
 Dakota College at Bottineau - \$393,960;
 State Department of Health - \$96,558,468;
 Department of Human Services - \$13,277,209;
 Job Service North Dakota - \$100,000,000;
 Mill and Elevator - \$55,632;
 Workforce Safety and Insurance - \$83,354;
 Department of Corrections and Rehabilitation - \$386,398;
 Adjutant General - \$23,296,780;
 Department of Agriculture - \$2,261,000;
 Upper Great Plains Transportation Institute - \$102,495;
 Branch research centers - \$105,000;
 Main Research Center - \$174,999;
 Department of Transportation - \$294,493;

Office of Management and Budget (to be distributed to private higher education institutions) - \$5,000,000; and

State Treasurer (to be distributed to political subdivisions) - \$59,020,173.

In response to a question from Representative Kreidt regarding Request #2001 for the State Department of Health, Ms. Brenda Weisz, Chief Administrative Officer, State Department of Health, said the request includes funding to purchase 50 ventilators to fully stock the state medical cache. She said the ventilators will be sent to hospitals as needed. She said each ventilator costs approximately \$15,000.

In response to a question from Senator Bekkedahl, Mr. Morrisette said agencies are estimating funding needs, and adjustments to previously approved funding levels may be made at future meetings. He said Request #2002 from the Department of Human Services affects several programs that have different end dates. He said expenses must be incurred by the end of the year to be eligible for payment from the state's federal Coronavirus Relief Fund allocation.

In response to a question from Representative Kempenich regarding Request #2004 to distribute emergency education relief funds, Mr. Morrisette said funding in the request is not required to be spent by the end of the year. He said he will provide information regarding the time frame to use the funding.

It was moved by Senator Holmberg, seconded by Senator Robinson, and carried on a roll call vote that the Budget Section approve Requests #1995, #1997, #1998, #2000, #2001, #2002, #2003, and #2004 which were approved by the Emergency Commission. Senators Wanzek, Bekkedahl, Dever, Erbele, Grabinger, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Bellew, Boe, Boschee, Brandenburg, Delzer, Hanson, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Martinson, Meier, Mock, Monson, Nathe, Nelson, Pollert, Sanford, Schatz, Schmidt, Schobinger, and Vigesaa voted "aye." No negative votes were cast.

Chairman Wanzek called for discussion on Emergency Commission Request #2005.

Mr. Morrisette said Request #2005 would authorize various state agencies to use \$319,701,086 of funding from the federal Coronavirus Relief Fund to respond to the effects of COVID-19.

In response to a question from Representative Klemin, Mr. Morrisette said the Workforce Safety and Insurance request is in response to executive orders to extend workers' compensation coverage to first responders, health care providers, and funeral services staff who contract COVID-19.

In response to a question from Senator Heckaman, Mr. Morrisette said park districts have had the opportunity to apply for federal Coronavirus relief funds. He said park districts previously have received allocations and Request #2005 includes an additional \$120,173 for park districts.

In response to a question from Senator Mathern, Mr. Morrisette said each agency has a process to determine which employees should work remotely. He said there may be budget savings resulting from the need for less office space.

In response to a question from Representative Bellew, Mr. Morrisette said the funding requested to be distributed to political subdivisions through the State Treasurer would be available for distribution in approximately 1 week if approved. He said there has been communication with political subdivisions indicating the funding is intended to keep mill rates low and taxes should not be increased. He said the request does not require political subdivisions to lower property tax rates.

In response to a question from Senator Bekkedahl, Mr. Morrisette said up to 45 percent of federal Coronavirus relief funds may be allocated to political subdivisions. He said he will provide information regarding the percentage of federal Coronavirus relief funds that have been allocated to political subdivisions in the state.

Senator Bekkedahl expressed concern regarding the lack of funding being provided to political subdivisions from the federal Coronavirus Relief Fund.

In response to a question from Representative Nathe, Mr. Morrisette said each agency is reviewing telework issues, including liabilities. He said there is not a statewide risk management policy regarding telework but discussions with the Risk Management Division of the Office of Management and Budget and Workforce Safety Insurance are occurring to address issues.

Senator Wardner said political subdivisions should have flexibility regarding the use of funds requested to allow for local needs to be addressed. However, he said, political subdivisions should be encouraged to keep taxes low.

Representative Pollert said there may be additional needs that require funding from the federal Coronavirus Relief Fund. He said the state required certain businesses to close in response to COVID-19 and it is important to assist those businesses.

Senator Holmberg said funding previously allocated from the federal Coronavirus Relief Fund may need to be reallocated for higher priority needs.

In response to a question from Representative Beadle, Mr. Morrisette said the Office of Management and Budget is conducting a real estate study and assessment to determine space needs for state agencies. He said part of the assessment has involved surveying state agencies to determine preferences for telework. He said the assessment will be available before the 2021 legislative session.

Representative Boschee said there are several questions regarding how federal Coronavirus relief funds are prioritized and allocated. He expressed concern regarding the lack of a formal process for legislators to bring ideas forward and he is disappointed the Legislative Assembly has not had a direct role in determining funding allocations.

Senator Holmberg said the current Emergency Commission process was established by the Legislative Assembly in 1991. He suggested a review be conducted of the process used by the Emergency Commission to authorize additional state agency spending.

Representative Pollert said over the years, the legislative branch has been delegating more authority to the executive branch. He said the Legislative Assembly, during the 2021 legislative session, needs to consider whether too much legislative authority has been delegated.

In response to a question from Representative Bellew, Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, said each agency request included in Request #2005 may be considered separately. He said a request may not be amended by the Budget Section.

Senator Mathern said he intends to vote no on the request. He said he is concerned the legislative branch is ceding its authority to appropriate funds to the executive branch. He said there is a lack of transparency regarding funding requested by agencies which was not included in the request.

Representative Klemin requested the Workforce Safety and Insurance request be considered separately.

Representative Bellew requested the State Treasurer request for distributions to political subdivisions be considered separately.

It was moved by Senator Holmberg, seconded by Representative Pollert, and carried on a roll call vote that the Budget Section approve Request #2005 which was approved by the Emergency Commission, except for the funding designated for Workforce Safety and Insurance and the State Treasurer. Senators Wanzek, Bekkedahl, Dever, Erbele, Grabinger, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Oehlke, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Bellew, Boe, Boschee, Brandenburg, Delzer, Hanson, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Martinson, Meier, Mock, Monson, Nathe, Nelson, Pollert, Sanford, Schatz, Schmidt, Schobinger, and Vigessaa voted "aye." Senator Mathern voted "nay."

Chairman Wanzek called for committee discussion regarding the Workforce Safety and Insurance funding included in Request #2005.

Representative Klemin said the funding requested by Workforce Safety and Insurance will be used to expand workers' compensation coverage to volunteers, first responders, and others authorized by the Governor's executive orders. He said in the past the Legislative Assembly has considered but not approved bills that would have expanded workers' compensation coverage as was done by the Governor in the executive orders. He said it is inappropriate for the Budget Section to provide funding for expanding workers' compensation coverage when the Legislative Assembly has previously rejected the proposal.

Senator Klein said he is supportive of the request to use funds. He said this is a unique situation and assistance should be provided to volunteers and others if needed.

Senator Wardner said the funding is for a temporary issue that will not be continued permanently.

It was moved by Senator Klein, seconded by Representative Boschee, and carried on a roll call vote that the Budget Section approve funding for Workforce Safety and Insurance included in Request #2005 which was approved by the Emergency Commission. Senators Wanzek, Bekkedahl, Dever, Grabinger, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Bellew, Boe, Boschee, Brandenburg, Delzer, Hanson, Holman, Howe, Kempenich, Kreidt, Louser, Martinson, Meier, Mock, Nathe, Nelson, Sanford, and Schobinger voted "aye." Representatives Klemin, Pollert, Schatz, Schmidt, and Vigesaa voted "nay."

Chairman Wanzek called for committee discussion regarding the State Treasurer's request for funding distributions to political subdivisions included in Request #2005.

Representative Bellew said the request does not require political subdivisions to use the funding to keep property taxes low. He said the request should be denied and returned to the Emergency Commission for the commission to review options to require the funding be used to keep property taxes low.

In response to a question from Senator Hogue, Mr. Morrisette said the funding requested to be distributed to political subdivisions is based on licensed law enforcement officers in each jurisdiction and the average law enforcement salary last year. He said the funding would be distributed based on actual law enforcement salary and benefits for a 7-month period beginning in March 2020 through September 2020. He said if the request is approved, March through July payroll amounts would be collected now for the first allocation and a second allocation would occur in October.

In response to a question from Representative Nathe, Mr. Morrisette said the intent of the Emergency Commission was for political subdivisions to use the funding to keep property tax mill rates as low as possible.

Representative Nathe said in the past the Legislative Assembly has provided funding to political subdivisions to reduce property taxes but the political subdivisions have not reduced taxes. He said he supports returning the request to the Emergency Commission to be revised to ensure property taxes are kept low.

Senator Wardner said he does not support denying the funding for political subdivisions. He said political subdivisions have costs associated with COVID-19 which were not anticipated. He said political subdivisions also have other extraordinary needs, and flexibility should be provided in the use of funds.

In response to a question from Representative Mock, Senator Bekkedahl said the deadline for cities to submit preliminary budgets to county auditors was August 10. He said final budgets are required to be submitted by October 10.

Senator Bekkedahl said denying the political subdivision funding would compound revenue and expense issues being experienced by political subdivisions.

Senator Heckaman said she does not support denying the funding request. She said political subdivisions are experiencing COVID-19 expenses and also are experiencing a reduction in revenues.

Senator Dever said requiring political subdivisions to use the funding to reduce property taxes may not be appropriate. He said the federal CARES Act does not allow the federal funding be used to supplant state and local funding.

In response to a question from Senator Hogue, Senator Bekkedahl said reductions in property valuations also may negatively affect political subdivision revenues.

It was moved by Representative Bellew, seconded by Representative Schatz, and failed on a roll call vote that the Budget Section deny funding for the State Treasurer to be distributed to political subdivisions in Request #2005 as approved by the Emergency Commission and to request the Emergency Commission reconsider approving the funding distributions with the condition the funding be used to lower property taxes. Representatives Bellew, Kempenich, Klemin, Kreidt, Nathe, and Schatz voted "aye." Senators Wanzek, Bekkedahl, Dever, Grabinger, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Boe, Boschee, Brandenburg, Hanson, Holman, Howe, Louser, Martinson, Mock, Nelson, Pollert, Sanford, Schmidt, Schobinger, and Vigesaa voted "nay."

Chairman Wanzek called for additional committee discussion regarding the State Treasurer's request for funding distributions to political subdivisions included in Request #2005.

It was moved by Senator Wardner, seconded by Senator Robinson, and carried on a roll call vote that the Budget Section approve funding for the State Treasurer to be distributed to political subdivisions in Request #2005 which was approved by the Emergency Commission. Senators Wanzek, Bekkedahl, Dever, Grabinger, Heckaman, Hogue, Holmberg, Klein, Krebsbach, Lee, Mathern, Oehlke, Poolman, Robinson, Sorvaag, and Wardner and Representatives Anderson, Beadle, Bellew, Boe, Boschee, Brandenburg, Hanson, Holman, Howe, Kempenich, Klemin, Kreidt, Louser, Martinson, Mock, Nathe, Nelson, Pollert, Sanford, Schatz, Schmidt, Schobinger, and Vigesaa voted "aye." No negative votes were cast.

OTHER BUSINESS

Senator Mathern suggested the Budget Section receive information regarding the 2021 legislative session planning and estimated costs.

Chairman Wanzek announced the Budget Section meeting is tentatively scheduled for Thursday, September 17, 2020.

No further business appearing, Chairman Wanzek adjourned the meeting at 11:25 a.m.

Brady A. Larson
Assistant Legislative Budget Analyst and Auditor

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:3